

<p style="text-align: center;">NELSON COUNTY BOARD OF ZONING APPEALS November 5, 2018 MEETING MINUTES</p>
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Present: Gifford Childs, Ron Moyer, Mary Kathryn Allen, Carole Saunders, Angela Jones and Shelby Bruguere (Alternate)

Staff: Sandy Shackelford, Director, Planning & Zoning, and Emily Hjulstrom, Secretary

Call to Order: Ms. Allen called the meeting to order at 7:00 P. M. in the General District Courtroom, County Courthouse, Lovington. There were six members present to establish a quorum.

Approval of Minutes (February 5, 2018): Ms. Allen asked for any changes or corrections on the minutes.

Mr. Childs noted that the title page of the file said 'Meeting Agenda' and not 'Minutes'

Mr. Moyer made a motion that the meeting minutes be approved. Ms. Jones provided the second; the motion was approved 5-0.

1. **Special Use Permit #2017-07 – 'Mixed Use' / Todd M. Rath - Expiration**

Ms. Allen noted that Ms. Shackelford, Mr. Rath and his representative, and the representative for Rockfish Valley Orchard would each be allowed 15 minutes to speak. She then referred to the following public hearing guidelines:

NELSON COUNTY BOARD OF ZONING APPEALS

PUBLIC HEARING GUIDELINES

1. The Presentation by the Petitioner's representative(s) will be limited to fifteen (15) minutes. If it is difficult to fully explain a complex proposal orally within the time limit, it is recommended that the petitioner submit in advance to the Zoning Office written information that can be mailed to the Board of Zoning Appeals prior to their respective meetings.
2. A sign in sheet will be available and anyone desiring to speak must sign in.
3. Speakers representing a group will be allowed five (5) minutes to speak if their presentation will reduce the number of persons to make public comment.
4. Subsequent speakers will be allowed a maximum of three (3) minutes each and cannot allocate their time to another individual.
5. Speakers must come to the podium, give their name and address before making their remarks.
6. Speakers will be timed by a staff assistant and given notice when they have one (1) minute left and when their time has expired. Upon notification the speaker shall relinquish the podium and return to their seat.
7. Speakers are asked to not be repetitive and to insure their remarks are relevant to the request at hand.
8. When the public hearing is closed the Board of Zoning Appeals will deliberate on the agenda item, during which the public may remain present but will not be allowed to speak. Members of the Board of Zoning Appeals may ask questions of anyone in the audience in order to seek clarification of issues that were brought out at the hearing.
9. Abusive and inappropriate language will not be tolerated.
10. The Chair will fairly enforce the above rules.

Ms. Shackelford then read from the following:

**Nelson County
Board of Zoning Appeals**

To: Board of Zoning Appeals

From: Sandra M. Shackelford, Director of Planning & Zoning

Date: October 25, 2018

Re: Appeal of determination that Special Use Permit #2017-07 has expired.

BACKGROUND:

On June 22, 2017, Mr. Todd Rath, agent for Rockfish Valley Events, LLC, filed an application for a special use permit for a variety of mixed commercial uses on property located on Rockfish Valley Highway, referenced as tax parcels 6-A-131 and 6-A-163D. The original application included a request to utilize the existing buildings on the northern end of the property for a tasting room/restaurant, six one-bedroom cabins that were considered a motel based on the zoning ordinance definition, and then requested a broad number of potential special use permit options that would be applied to two additional retail spaces that were shown on the site plan.

During the course of the public hearing process, the applicant reduced the request that was considered by the Board of Supervisors to just the six one-bedroom cabins and the two buildings that would singularly be used as a restaurant and/or farm winery remote retail establishment (tasting room). This request was approved by the Board of Supervisors on August 8, 2017.

In early 2018, the applicant began the process to apply for a second special use permit for additional retail spaces. The Planning Commission held a public hearing for this next special use permit on February 28, 2018, and recommended denial. Due to some lapses in the information included on the application, as well as some concerns over the notification the County used, the applicant agreed to withdrawal the application prior to the Board of Supervisors taking action on whether or not to approve it.

The special use permit process was immediately re-initiated by the applicant and went to the Planning Commission for public hearing on June 15, 2018. The Planning Commission used the full time they were allowed to consider the request before voting to recommend denial of the request to the Board of Supervisors. At two points during the public hearing/consideration of this request, the applicant stated that the first special use permit that had already been approved by the Board of Supervisors would not pay for itself. The applicant made it clear that the project was not economically viable unless the additional special use permits were approved. The Board of Supervisors ultimately approved the second set of special use permits on September 11, 2018.

At that time, over a year had transpired between the initial approval of the first special use permit and the approval of the second set of special use permits.

DISCUSSION:

The zoning ordinance states that the special use permit shall be established, or any construction authorized shall be commenced and diligently pursued, within twelve (12) months from the approval date of such permit unless additional time is granted by the Board of Supervisors. On September 4, 2018, I wrote an official determination letter to Mr. Rath stating that this special use permit had expired based on the limited amount of development activity that had occurred on the property to date.

Prior to issuing that determination letter, I had inquired from Mr. Rath and his team of professionals what activities had been conducted on the property. I got a response back on August 27, 2018 that listed out a number of activities that included pursuit of stormwater permits through the Department of Environmental Quality, well drilling, and engineering fees. However, no official documentation was submitted to the County aside from a site plan that was signed off on by the Virginia Department of Transportation on March 12, 2018, which was not an accurate site plan.

Mr. Payne, the County Attorney, has submitted a memo for the Board of Zoning Appeal's consideration that explains some of the legal considerations that have gone into the determination that the special use permit should be considered null and void. In addition to a lack of actual physical construction on the property at this time, few of the efforts that have been documented by the applicant have been exclusive to the first special use permit that was approved. The applicant stated on record on two occasions that the first phase wasn't economically viable on its own, which means that the project would not move forward unless the additional special use permits were approved. By making those remarks, the applicant has essentially confirmed that there was no interest in pursuing the first special use permit until they could be assured the additional phases would also be able to move forward.

RECOMMENDATION:

The Board of Zoning Appeals is now charged with considering whether to uphold my determination as Zoning Administrator that Special Use Permit #2017-07 has expired, or whether the applicant has submitted sufficient evidence to demonstrate that the use has been established.

Mr. Childs asked that when the second batch of Special Use Permits was reviewed if there was any consideration to the first one. Ms. Shackelford noted that they must be treated as separate requests. Ms. Allen noted that the Planning Commission made a special note to specifically review only the second Special Use Permit at the time it was submitted.

Mr. Maynard Sipe of 126 Garrett St. in Charlottesville is the attorney representing Rockfish Orchard and Mr. Philip Dejong. He stated that he is here in support of the Zoning Administrator's decision and would like the BZA to uphold it. He noted that the arguments raise issues about the definition of construction. And that the county attorney noted that there is no definition of construction in the zoning ordinance so that it is then up to the planning director to determine. He noted that the dictionary definition of construction is to assemble things into a structure or a building. He also noted that mechanics lien law does not apply to zoning related questions and that the County Attorney referenced a Supreme Court case that upheld that in his memo. He explained that the well is the most significant action that the applicant has but that there is no concrete evidence that it was completed. He also noted that he didn't believe a completed well would meet the definition of construction. He noted that rules like this were in place to prevent people from sitting on Special Use Permits without taking any action on them. He noted that the ordinance stated 'construction authorized for the use...' and that nothing has been done related to the Special Use Permit. He further noted that he does not believe the applicant has been diligently pursuing the first phase and has been spending his time on getting approval for his second Special Use Permit that was approved recently by the Board of Supervisors. He addressed the applicant's argument about the County's history on handling other Special Use Permits. He noted that the ordinance does not require the County to give any notice when a Special Use Permit expires and that the reason this one was notified was because someone brought it to the County's attention. He then referenced the following memo that he provided to the BZA:

Nelson County Board of Zoning Appeals
Lovinston, Virginia

Re: Appeal by Rockfish Valley Events, LLC of Determination by Zoning Administrator

I represent Rockfish Orchard Property Homeowners Association, Ltd. and Mr. Philip De Jong who wish to express their support for the decision by the Nelson County Zoning Administrator issued on September 5, 2018 that a special use permit previously issued to Rockfish Valley Events, LLC (SUP 2017-07) expired and became void for failure to commence construction. My clients have a direct interest in the outcome of the Board's decision in this matter, as they are immediately adjacent property owners who would suffer specific burdens from the use associated with SUP 2017-07, including but not limited to noise and traffic due. These burdens would be much greater than those faced by the public in general.

Standard of Review for of Zoning Administrator's Determination

First, I wish to highlight for the Board the standard of review that under law, the Board is to apply in their decision on the appeal. The only question before the Board is whether the Zoning Administrator's decision is correct.¹

Under state law, the Zoning Administrator's decision is presumed to be correct.² The appellant, in this case Rockfish Valley Events, has the burden of proof and must rebut the presumption of correctness by a preponderance of the evidence presented to the Board.³

The Supreme Court of Virginia has stated that Zoning Administrators charged with applying zoning ordinances are able to ensure consistent application of such ordinances consonant with a local government's intent for specific ordinances and thus, deference to administrative construction is appropriate.⁴ Unless a Zoning Administrator's interpretation of an ordinance is "so at odds with the plain language used in the ordinance as a whole," then the Zoning Administrator's interpretation should be sustained.⁵

Zoning Administrator's Decision that SUP 2017-07 Expired is Correct

Section 12-3-8(b) of the Nelson County Zoning Ordinance requires that when a special use permit has been approved, the use itself must be established, or construction authorized for the use must be commenced, within twelve months from the date of approval. Rockfish Valley Events secured approval of SUP 2017-07 on August 8, 2017. The special use permit authorized six one-bedroom cabins and a farm winery remote establishment.

It is obvious that the use was not commenced - no cabins have been built and the existing building on the site remains vacant. The Zoning Administrator's decision then turned on whether construction authorized for the use has been commenced. The Zoning Administrator requested from

¹ Virginia Code §15.2-2309(1); Board of Zoning Appeals of James City County v. University Square Associates, 246 Va. 290 (1993).

² Virginia Code §15.2-2309(1); Wolf v. Bd. of Zoning Appeals, 260 Va. 7 (2000).

³ Virginia Code §15.2-2309(1).

⁴ The Lamar Company, LLC et al. v. Board of Zoning Appeals, City of Lynchburg, 270 Va. 540 (2005).

⁵ Cook v. Board of Zoning Appeals of the City of Falls Church, 244 Va. 107 (1992).

the appellant a list of activities undertaken related to the use. After reviewing this list of activities, the Zoning Administrator found that construction authorized for the use had not been commenced.

The Zoning Ordinance does not offer a specific definition of construction, but the plain meaning of "construction" as cited by several dictionaries invokes the process of building large structures or buildings.⁶ Thus, it is an entirely reasonable interpretation by the Zoning Administrator to conclude that no construction authorized for the use had taken place as no assembling of any large structures or buildings had been started.

The only physical activity the appellant cites as taking place on their property is the digging of a well. Digging or boring of a well fails to meet the common definition of construction. Further, the list of activities the appellant provided to the Zoning Administrator describe the well as a "test well." The well could thus be reasonably viewed as typical due-diligence work performed by Rockfish Valley Events in advance of undertaking construction. Also, the well is not specific to the use authorized under the special use permit. The well could serve any use of the property including by-right single-family residential use or even agricultural use.

Finally, it is important to note that, contrary to the appellant's claim that they did not sit on their rights, the appellant did just that. Appellant had two courses of action to protect their rights under SUP 2017-07 that did not even require construction and appellant failed to take them. The first was the very simple process of applying for an extension of time for commencing the special use as provided for under Nelson County's zoning ordinance.⁷ Appellant could have applied for this extension but chose not to. The second was to secure approval of a site plan which would have vested their rights under SUP 2017-07. Appellant never bothered to even file an application for a site plan with the County. As to all of the expenditures cited by the appellant, these are typical costs encountered by developers all the time at their own risk. These costs are not relevant as the Board is not permitted to resolve appeals by taking into account "equitable considerations."⁸

Because the Zoning Administrator's determination that construction authorized for the use under SUP 2017-07 had not commenced within twelve months of the special use permit's approval is reasonable and not plainly wrong or at odds with the intent of the Zoning Ordinance generally, I ask on behalf of my clients that you uphold the Zoning Administrator's decision.



Maynard Sipe, Esq.
Boyd & Sipe, PLC
126 Garrett Street
Charlottesville, VA 22902

⁶ Oxford Dictionary: "the action of building something, typically a large structure;" Collings English Dictionary: "construction is the building of things such as houses, factories, roads and bridges;" MacMillan Dictionary: "the process of building something large or complicated such as a bridge or road" and "the work or business of building things, especially houses and other buildings."

⁷ Nelson County Zoning Ordinance §12-3-8.

⁸ Board of Supervisors v. Bd of Zoning Appeals, 271 Va. 336 (2006). The Free Dictionary: An equitable decision is one "resolved not simply according to the strict letter of the law but in accordance with principals of substantial justice and the unique facts of the case."

He noted that the one year expiration review is not that tough on the applicant and that the applicant did not afford himself extra time by applying for an extension. He also explained that filing an approved site plan would have vested the applicant for five years and that the applicant made no attempt to do that. He noted that the applicant had spent significant amounts of money upfront but that it is not uncommon for a developer to do.

Mr. Mike Derdeyn noted that he lives at 530 E. Main St. in Charlottesville, Va. and that he represents the applicant Todd Rath. He noted that the primary issue is the definition of commencement of construction. He explained that the Zoning Administrator and County Attorney say there has to be some kind of construction of a building to satisfy the provisions of the ordinance. He noted that it doesn't make any sense when you look at the language of the ordinance. He listed the following uses that are allowed by-right in A-1: golf courses, landfills, outdoor firing ranges, private air strips, quarrying, and natural resource extraction. He noted that these uses do not require a building or a structure. He explained that the Supreme Court case referenced by the County Attorney was for a building permit but not a Special Use Permit. He explained that it makes sense to require it for a building permit but that a Special Use Permit does not always require a structure. He explained that the way the ordinance has been interpreted could allow for a project that does not have a structure to be halted when it is close to being completed. He noted that the mechanics lien statute very clearly shows that construction of a well and surveying are considered construction. He explained that the testing for the Well Completion Permit has not been done yet but that he does have an affidavit from the well driller verifying that he drilled the well on the date in question:

SUBMITTED TO BZA
Nov. 5, 2018

AFFIDAVIT OF DAVID McGANN

STATE OF VIRGINIA
CITY/COUNTY OF NEASON; to wit:

David McGann, after being duly sworn, deposes and states as follows:

1. My name is David McGann and I work for McGann Well Drilling in Afton, Virginia.
2. From July 17, 2018 through July 25th, 2018, I drilled a 400 foot well for Rockfish Valley Events, LLC on their property located on Rockfish Gap Turnpike. Highway. Dim - 827 Valley
3. The well drilling was completed on July 25, 2018.

Further the affiant sayeth not.


David McGann

Subscribed and sworn to before me in and for the City/County and State aforesaid, this 5 day of NOVEMBER, 2018 by David McGann.


Notary Public

Registration number: 287683
My commission expires: 9/30/20



He noted that Nelson County has never issued expiration notices like this before. He also noted cases in which the County has issued building permits over 2 years after the Special Use Permits were granted. He noted that this is incredibly unfair to the applicant. He noted that the applicant has spent over \$120,000 on this project so far. Mr. Derdeyn noted that it was at the Board of Supervisor's request that the application be split into Phase 1 (Tasting room and cabins) and Phase 2. He noted that VDOT, TJSWD approved phase 1 of the site plan in March of 2018. He also noted that VDH gave a well permit for the test well in March of 2018. He noted that DEQ had also been having discussions with the applicant since January of 2018 and that the discussions are ongoing because the DEQ keeps having more comments on the plans. He explained that the DEQ said they could not do anything with the site plan without DEQ approval. He explained that the applicant has been doing everything they can to push the project forward. He then submitted the following information to the BZA:

Submitted @ Nov, 5, 2018

**ROCKFISH VALLEY EVENTS, LLC'S ADDITIONAL SUBMISSION FOR
APPEAL OF SEPTEMBER 5, 2018 DETERMINATION BY ADMINISTRATIVE
OFFICER TO THE NELSON COUNTY BOARD OF ZONING APPEALS**

I. Overview

A. Zoning Administrator's Decision that the SUP expired was clearly wrong because

- Construction commenced; or
- Use was established within the meaning of the Zoning Ordinance

B. Ordinance is being selectively enforced in violation of the law

- No record of provision on expiration ever having been enforced

C. Relevant Provisions of Ordinance

12-3-8(b) Expiration.

- (1) Whenever a Special Use Permit is approved by the Board of Supervisors, **the special use authorized shall be established, or any construction authorized shall be commenced** and diligently pursued, within such time as the Board of Supervisors may have specified, or, if no such time has been specified, then within twelve (12) months from the approval date of such permit.
- (2) If the **special use or construction has not commenced** in accordance with the above provisions, then the **Special Use Permit shall** automatically expire without notice and **become null and void**.

12-3-11

A Special Use Permit **becomes void if the permit is not utilized within twelve – (12) months after approval**, or in the event the use has been discontinued for a consecutive twelve-month period.

Examples of Uses by Special Use Permit in A-1 Zoning District

- 4-1-19a - Golf courses.
- 4-1-21a - Landfill, sanitary.
- 4-1-27a - Natural resource extractions.
- 4-1-30a - Outdoor firing range in conjunction with the County noise control ordinance.
- 4-1-31a - Private airstrip.
- 4-1-32a - Quarrying.

II. Construction Commenced

- County's determination that construction did not commence based entirely on a Virginia Supreme Court case dealing with whether construction commenced under a **building permit**
 - McClung v. County of Henrico, 200 Va. 870 (1959) - construction within meaning of a building permit means "uniting materials so as to create a structure or building"
- Doesn't make sense to apply that definition to a Special Use Permit
 - Inconsistent with text of ordinance - no "structure or building" with a landfill, golf course, private airstrip
 - Inconsistent application of ordinance by County
 - i. Never previously issued a notice of expiration (**Exhibit 9**)¹
 - ii. County has routinely issued building permits more than one-year after approval of special use permit (**Exhibit 8**)
 - Mechanic's lien definition more appropriate for special use permit
- Commenced construction within meaning of the Zoning Ordinance for reasons set forth in the Justification Statement
 - Diligently pursued approvals from VA DEQ, VDOT, and Thomas Jefferson Soil and Water Conservation District
 - 3/7/18 VDOT approves Phase I Site Plan
 - 3/8/18 Thomas Jefferson Soil and Water Conservation District Approval
 - 3/12/18 VDOT signs off on Phase I Site Plan (**TAB A**)
 - 3/20/18 VDH test well permit granted
 - 3/27/18 VA DEQ informs Rockfish Valley Events that they cannot perform any work on the site, i.e. for utilities, septic, or buildings/remodels until DEQ approves Phase I Site Plan (**Exhibit 6**)
 - 7/17/18 Began drilling well
 - 7/25/18 Well drilling complete
 - Spent over \$100,000

¹ References to "Exhibits" are to the exhibits attached to the LLC's Justification Statement

III. The Use Was Established and the SUP Is Not Null and Void

- According to Section 12-3-11, the permit is not void as long as the permit is “utilized” within twelve months.
- “Utilized” means used, i.e. by submitting a site plan or seeking permitting, etc.
- The LLC has “utilized” the permit in submitting a site plan and seeking permitting from VA DEQ, VDOT, VDH etc.

IV. Unlawful Application of Ordinance

- Procedural Due Process
 - County’s definition of “construction” as relating only to the creation of a building or structure renders the ordinance confusing, uncertain, and vague
 - How can you “construct” a golf course or a private air strip under the County’s definition?
 - BZA should not accept such a narrow definition
- Selective Enforcement
 - Enforcement against the LLC shows clear and intentional discrimination
 - The LLC is the **only** special use permit holder against whom the requirement has been enforced

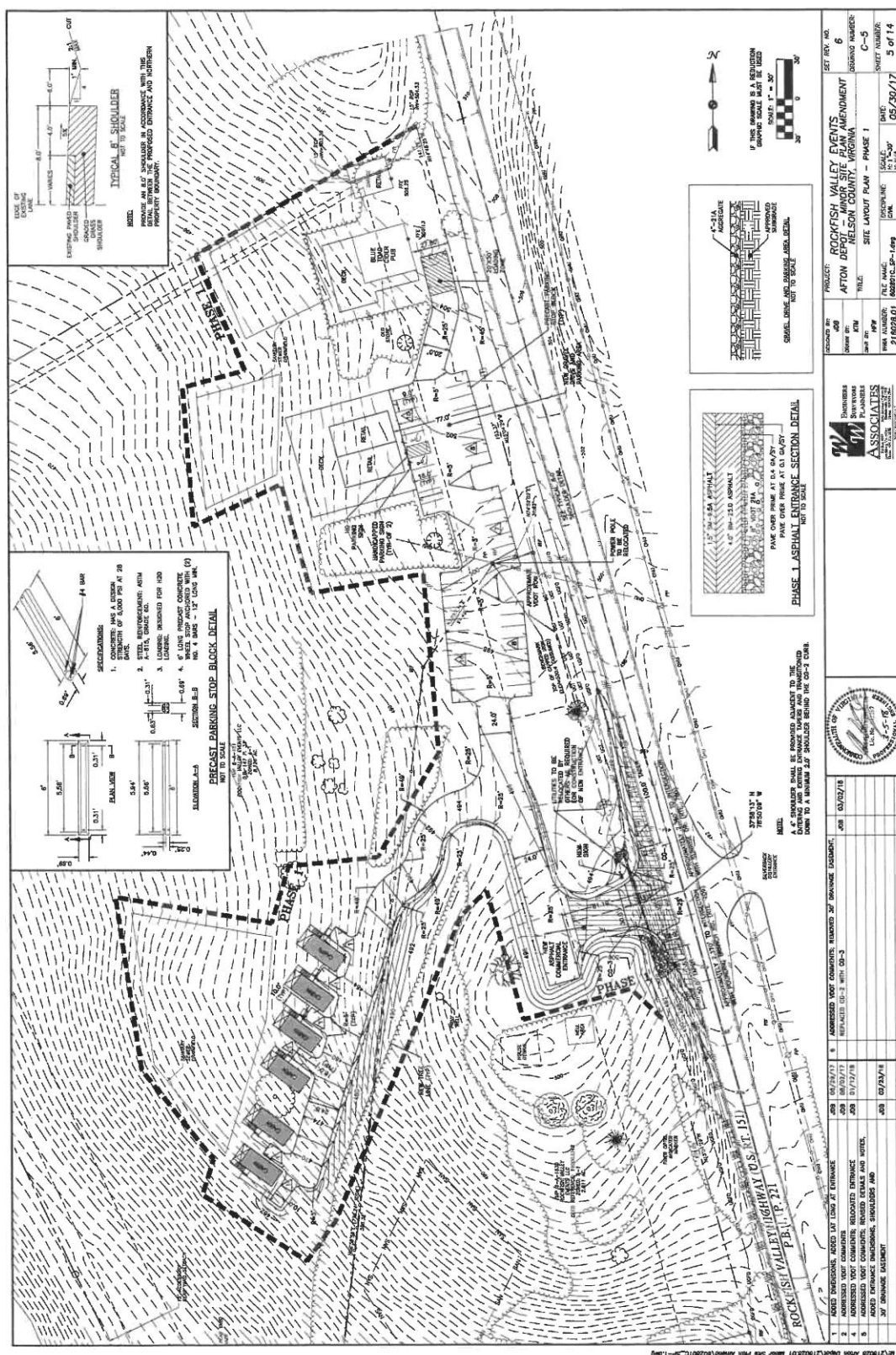
Respectfully Submitted,

ROCKFISH VALLEY EVENTS, LLC

By Counsel



Michael E. Derdeyn, Esq. (VSB #40240)
LENHART PETTIT PC
530 E. Main Street
P.O. Box 2057
Charlottesville, VA 22902
(434) 817-7978 Tel
(434) 977-5109 Fax
med@lplaw.com



He noted that if you read the ordinance as a whole it makes sense that the definition the county is placing on 'commencement of construction' is not accurate. He also noted that the Zoning Ordinance provides in section §12-3-11 that a Special Use Permit becomes void if the permit is not utilized in 12 months after approval. He noted that the only way to interpret this along with the other section is to say that the definition should be to have used the Special Use Permit. He noted that the applicant has used his Special Use Permit so far in the ways already listed.

He then pointed out that this is an issue of selective enforcement. He noted that it is problematic that this has not been enforced before in the County. He noted that one of the jobs of the BZA is to ensure that there is consistency in the application of the zoning ordinance.

Ian Kelly of 220 Rockfish Orchard Dr. then read from the following information:

— well on property — is it sending
1st or 2nd Sup
Submitted
Nov 5, 2018

8/10/2017 SUP Approved for Blue Toad Tasting Room and 6 Cabins

Note: There is a full 6-month gap in approval and asking the first question about how to proceed in building.

1/19/18 To: ROHA Neighborhood

"Within the next couple of weeks you should see work starting on the site and the 2 Junk Houses being removed and fencing going up between our land and Rockfish Orchard:."

2/5/18 To: His Engineers (WW Assoc.) and Shackelford

"To start moving dirt within the boundaries of the project what is needed permitting wise??"

2/8/18 John Beirne to Todd:

"You will need to get the VSMP permit to start the site work. Once we get the entrance revisions made for VDOT we will send a revised copy of the plans to the TJSWD as well for the final approval".

2/8/18 Shackelford to Todd:

"That is correct. You'll need to file for the necessary permits through the building inspections department here, and with TJSWCD".

2/28/18 Following Planning Commission Meeting recommending denial of SUP
2 To: Shackelford

"Are we allowed to delay until the April BOS Meeting? We need time to speak to neighbors, other business owners and supervisors."

Confirmed approved to move to April by Steve Carter on **3/1/18** at Todd's request.

3/8/2018 Thomas Jefferson Soil and Water approves, but references "Afton Depot Phase I."

Note: As of 7/1/18 TJSWCD no longer has contract with Nelson County, using internal resource

6/12/2018 Todd responding to Steve Carter's question about where he stands with DEQ:

"DEQ-we hired a third party to review our 1st submittal with WW Associates and found it to be so bad we started over. They used 5 year old regulations, as well as other issues. After this was complete we hired a new firm out of Richmond that is submitting our 2nd revision this week"

6/27/18 To: Shakelford:

"Exciting! A full two hours of lies and abuse. Thanks for all the help. We are going to focus on the 4 main points for any SUP. Greg did a good job of that in the last supervisor's meeting. I think I will just update while we are all here again and why...

Traffic

DUI counts I hope

Why we never started building and why we never would.

As well as where we stand as far as approvals.

Todd M Rath (Rockfish Valley Inn) <todd@rockfishvalleyinn.com>

J
a
n
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Images are not displayed. [Display images below](#) - Always display images
from todd@rockfishvalleyinn.com

Hello Neighbors,

I wanted to pass the email and attachments on below before you heard it through the grapevine. We already have 2 Interested parties wanting to rent small spaces on our project. This before we even put a shovel in the ground. Also, I wanted to share with you our Marketing materials so you can see how good the property will look when its all cleaned up and operational.

I have submitted these documents to the county for special use permitting per the instructions given to us as we received approval for our 1st Build Outs.

Within the next couple weeks you should see work starting on the site and the 2 Junk Houses being removed and the fencing going up between our land and Rockfish Orchard.

I hope everyone had a great holiday and a Happy New Year. Please reach out to me with any questions, comments or concerns.

Thank You.

Hello Rob and John. Can I have an answer Please?

Hi Sandra. Can you see my question posed early this week and get back to me please?

----- Forwarded message -----

From: "Todd Rath" <todd.rath@blueloadhardcider.com>

Date: Feb 5, 2018 6:55 PM

Subject: Re: Afton Depot 01.12.18 Rev. Site Plan Comments

To: "Kessler, Jeffery B., P.E. (VDOT)" <JefferyB.Kessler@vdot.virginia.gov>

Cc: "John Beirne" <jbeirne@wwassociates.net>, "Rob Umberger" <rumberger@wwassociates.net>, "Sandra Shackelford" <sshackelford@nelsoncounty.org>, "Brown, Sara S. (VDOT)" <Sara.Brown@vdot.virginia.gov>

Hey Jeff, Thanks for this. From my site guys perspective this all seems very minor. Thank you for the comments.

John / Rob -

Can we turn this around rather quick please?

I am not sure who this question should go to so I am addressing everyone. Sandra I will direct at you since that's where I think it should go....

To start moving dirt within the boundaries of the project what is needed permitting wise??

Thanks all

On Feb 2, 2018 4:14 PM, "Kessler, Jeffery B., P.E. (VDOT)" <JefferyB.Kessler@vdot.virginia.gov> wrote:

John,

Please find the attached letter of February 2, 2018 with my review comments. I will be happy to discuss any questions you may have.

Sincerely,

Jeff

Jeffery B. Kessler, P.E.

Area Land Use Engineer

VDOT - Lynchburg

434-859-8203

Sandra Shackelford

From: Sandra Shackelford
Sent: Thursday, February 08, 2018 9:28 AM
To: 'jbeirne@wwassociates.net'; 'Todd Rath'; 'Rob Umberger'; 'Greg Simon'; 'Kevin Tucker'
Subject: RE: Re: Afton Depot 01.12.18 Rev. Site Plan Comments

That is correct. You'll need to file for the necessary permits through the building inspections department here, and with TJSWCD.

Sandy Shackelford, AICP
Director of Planning & Zoning
sshackelford@nelsoncounty.org
434-263-7091

From: jbeirne@wwassociates.net [mailto:jbeirne@wwassociates.net]
Sent: Thursday, February 08, 2018 8:26 AM
To: 'Todd Rath' <toad.rath@bluetoadhardcider.com>; 'Rob Umberger' <rumberger@wwassociates.net>; 'Greg Simon' <gsimon1230@cox.net>; Sandra Shackelford <sshackelford@nelsoncounty.org>; 'Kevin Tucker' <KTucker@solitudelake.com>
Subject: RE: Re: Afton Depot 01.12.18 Rev. Site Plan Comments

Todd,

You will need to get the VSMP permit to start the site work. Once we get the entrance revisions made for VDOT we will send a revised copy of the plans to the TJSWCD as well for final approval

Thanks,
John D. Beirne, Jr., PE
Senior Project Engineer



ASSOCIATES

Office Phone: 434.960.8275
Main: 434.984.2700
Fax: 434.978.1444
3040 Avemore Square Place
Charlottesville, VA 22911
jbeirne@wwassociates.net
www.wwassociates.net

From: Todd Rath [mailto:toad.rath@bluetoadhardcider.com]
Sent: Thursday, February 08, 2018 8:14 AM
To: John Beirne <jbeirne@wwassociates.net>; Rob Umberger <rumberger@wwassociates.net>; Greg Simon <gsimon1230@cox.net>; Sandra Shackelford <sshackelford@nelsoncounty.org>; Kevin Tucker <KTucker@solitudelake.com>
Subject: Fwd: Re: Afton Depot 01.12.18 Rev. Site Plan Comments

Sandra Shackelford

From: Todd Rath <toad.rath@bluetoadhardcider.com>
Sent: Wednesday, February 28, 2018 9:28 PM
To: Sandra Shackelford
Cc: Kevin Tucker
Subject: Board of Supervisors Meeting...

Sandra

Thanks for your help tonight. Sorry I did not talk after. I had to go straight to the hospital to stop the bleeding from the gun shot wounds.

Are we allowed to delay until the April BOS meeting? We need time to speak to neighbors, other business owners and supervisors.

Thanks again.

Sandra Shackelford

From: Steve Carter
Sent: Thursday, March 01, 2018 1:06 PM
To: Sandra Shackelford; Candy McGarry
Subject: RE: Board of Supervisors Meeting...

Sandy,

I've been a bit busy and am just seeing your message. Deferring Mr. Rath's SUP to April is fine (and actually preferred). Is he amenable to paying the re-advertisement cost?

Steve

From: Sandra Shackelford
Sent: Thursday, March 1, 2018 9:18 AM
To: Candy McGarry <CMcGarry@nelsoncounty.org>; Steve Carter <SCarter@nelsoncounty.org>
Subject: FW: Board of Supervisors Meeting...

Good morning,

At the meeting last night, the Planning Commission recommended denial of Mr. Rath's request. The other request for the campground was tabled.

Please see Mr. Rath's request below to delay the public hearing with the Board until the April meeting. Would you require that he pays any additional advertising fees if this happens?



Thomas Jefferson Soil and Water Conservation District
2134 Berkmar Drive, Charlottesville, VA 22901
Tel: (434) 975-0224 Fax: (434) 975-1367
Web Page: www.tjswcd.org

Louisa Office: 39 Industrial Dr, Louisa, VA 23093
Phone: 540-967-5940 Fax: 540-967-2557

March 8, 2018

Ms. Sandy Shackelford
Nelson County Inspections Dept.
P.O. Box 558
Lovingston, VA 22949

Re: Rockfish Valley Events – Afton Depot Phase I

Dear Sandy:

The Thomas Jefferson Soil and Water Conservation District has approved the revised erosion and sediment control plan for the above-referenced project dated May 30, 2017, and final revisions received by the TJSWCD on March 5, 2018.

Prior to construction, a VPDES Construction Permit (for > 1 acre disturbance) must be obtained from the Virginia Department of Conservation & Recreation. Information about this permit can be found at the following website: http://www.dcr.virginia.gov/soil_and_water/stormwat.shtml. Additionally, a certified "Responsible Land Disturber" (RLD) must be designated for the project.

Signed copies of the approval letter and approved plan will follow shortly.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin Johnson".

Martin Johnson
Urban Conservation Specialist

Cc. (via email): Debbie Harvey, Nelson County
Jim Allen, Nelson County
John Beirne, WW Associates
Anne Coates, District Manager
TJSWCD Nelson County Directors

Sandra Shackelford

From: Todd Rath <toad.rath@bluetoadhardcider.com>
Sent: Tuesday, June 12, 2018 4:15 PM
To: Steve Carter
Cc: Maureen A Kelley; Kevin Tucker; Greg Simon (gsimon1230@cox.net); Sandra Shackelford; Emily Hjulstrom
Subject: Re: Zero Requests Received.... Afton Depot

Mr. Carter,

Thanks for your response.

DEQ - We hired a 3rd party to review our 1st submittal with WW Associates and found it to be so bad we started over. They used 5 year old regulations, as well as other issues. After this was complete we hired a new firm out of Richmond that is submitting our 2nd revision this week. Probably tomorrow.

It is interesting to see that their is such interest in the DEQ. Their is nothing stopping us from being approved, except for the slow and painstaking process. Would help if I get a letter from our engineering firm and possibly the DEQ stating there is no issue with our land that would hold up us building, rather we just need to approve proper plans. Would this help?

I will ask again, but maybe a different way...

Why has our approval been delayed without just cause or requests? It was asked to have a 30 day breather to look over everything and gather more information. I have been asked or told nothing. Now we, by the time we go to planning at the end of the month, it will be close to 90 days. More time for protest, and gathering signatures, against a perfectly fine project.

If your not the person I should ask, please tell me who, and I will head that direction. Thank You.

Todd "Toad" Rath
Blue Toad HARD Cider
www.BlueToadHardCider.com
Head Bottle Washer & Brand Ambassador
Virginia Operations
162 Winery Lane
Roseland, VA 22967
Western New York Operations
120 Mushroom Blvd, Suite 105
Rochester, NY 14623
toad.rath@bluetoadhardcider.com
(434) 996-7133

EROSION AND SEDIMENT CONTROL BOND						
NAME OF PROJECT: Rockfish Valley Events - Afton Depot Phase I						
DATE PREPARED: 3/8/18						
Std. & Spec.	Name of Std. & Spec.		# OF UNITS	UNIT COST	UNIT	TOTAL
#	KEY	Title				
3.01	SAF	Safety Fence - Chain	0	\$ 12.00	LF Chain	\$ -
	SAF	Plastic	0	\$ 2.50	LF Plastic	\$ -
3.02	CE	Construction Entrance	1	\$800	EA Gravel	\$ 800.00
	CE	Wash Rack	0	\$ 1,000.00	EA	\$ -
3.03	CRS	Construction Road Stabilization	0	\$ 6.00	SQ YD Gravel	\$ -
3.04	STB	Straw Bale Barrier	0	\$ 6.00	LF	\$ -
3.05	SF	Silt Fence	860	\$ 5.00	LF	\$ 4,300.00
3.06	BB	Brush Barrier	0	\$ 5.00	LF	\$ -
3.07	IP	Inlet Protection (Storm Drain)	0	\$ 100.00	EA	\$ -
3.08	CIP	Culvert Inlet Protection	0	\$ 100.00	Each	\$ -
3.09	DD	Temp. Diversion Dike	170	\$ 5.00	LF	\$ 850.00
3.10	FD	Temp. Fill Diversion	0	\$ 1.50	LF	\$ -
3.11	RWD	Temp. Right-of-way Diversion	0	\$ 2.50	LF Stone	\$ -
	RWD	Earth	0	\$ 2.50	LF Earth	\$ -
3.12	DV	Diversion	0	\$ 12.00	LF ft.	\$ -
3.13	ST	Temp. Sediment Trap	0	\$ 2,500.00	Site Specific	\$ -
3.14	SB	Temp. Sediment Basin	0	\$ -	Site Specific	\$ -
3.15	TSD	Temp. Slope Drain	0	\$ -	Site Specific	\$ -
3.16	PF	Paved Flume	0	\$ 30.00	SQ YD	\$ -
3.17	SCC	Stormwater Conveyance Channel	0	\$ 7.00	SQ YD Seeded	\$ -
	SCC	Sodded	0	\$ 12.00	SQ YD Sodded	\$ -
	SCC	Riprap	0	\$ 50.00	SQ YD Riprap	\$ -
3.18	OP	Outlet Protection	18	\$ 50.00	SQ YD Riprap	\$ 900.00
3.19	RR	Riprap	0	\$ 50.00	SQ YD Riprap	\$ -
3.20	CD	Rock Check Dams	0	\$ 20.00	EA	\$ -
3.21	LS	Level Spreader	0	\$ 15.00	LF	\$ -
3.22	VSS	Veg. Streambank Stabilization	0	\$ -	Site Specific	\$ -
3.23	SSS	Structural Streambank Stabilization	0	\$ 50.00	SQ YD Riprap	\$ -
3.24	SC	Temp. Vehicular Stream Crossing	0	\$ -	Site Specific	\$ -
3.25	USC	Utility Stream Crossing	0	\$ -	Site Specific	\$ -
3.26	DS	Dewatering Structure	0	\$ -	Site Specific	\$ -
3.27	TC	Turbidity Curtain	0	\$ -	Site Specific	\$ -
3.28	SD	Subsurface Drain	0	\$ 3.00	LF	\$ -
3.29	SR	Surface Roughening	0	\$ 85.00	Hours	\$ -
3.30	TO	Topsoiling	0	\$ -	Site Specific	\$ -
3.31	TS	Temporary Seeding	2.46	\$ 850.00	Acres	\$ 2,091.00
3.32	PS	Permanent Seeding	2.46	\$ 1,250.00	Acres	\$ 3,075.00
3.33	SO	Sodding	0	\$ 150.00	SQ FT	\$ -
3.34	BE/ZE	Bermuda & Zoysiagrass Establ.	0	\$ -	SQ FT	\$ -
3.35	MU	Mulching	0	\$ 8.00	SQ FT	\$ -
3.36	B/M	Soil Stabil. Blankets & Matting	0	\$ 3.00	SQ YD	\$ -
3.37	VEG	Trees, Shrubs, Vines Ground cover	0	\$ -		\$ -
3.38	TP	Tree Preservation & Protection	0	\$ -		\$ -
3.39	DC	Dust Control	0	\$ -		\$ -
ADDITIONAL		Riprap Detention Ditch	0	\$ -		\$ -
ADDITIONAL		SWMP	0	\$ 4,000.00	EA	\$ -
ADDITIONAL			0	\$ -		\$ -
ADDITIONAL			0	\$ -		\$ -
ADDITIONAL			0	\$ -		\$ -
ADDITIONAL			0	\$ -		\$ -
25% Contingency			0	\$ 3,004.00		\$ 3,004.00
TOTALS						\$ 15,020.00

Sandra Shackelford

From: Todd Rath <toad.rath@bluetoadhardcider.com>
Sent: Wednesday, June 27, 2018 3:38 PM
To: Sandra Shackelford
Cc: Emily Hjulstrom; Greg Simon (gsimon1230@cox.net)
Subject: Re: Slides for Tonight?

Exciting!

A Full 2 hours of lies and abuse.

Thanks for all the help. We are going to focus on the 4 main points for any SUP.
Greg did a good job of that in the last supervisors meeting.

I think I will just update while we are all here again and why...

Traffic

DUI counts I hope

Why we never started building and why we never would.

As well as where we stand as far as approvals.

Todd "Toad" Rath
Blue Toad HARD Cider
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Head Bottle Washer & Brand Ambassador
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462 Winery Lane
Roseland, VA 22967
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120 Mushroom Blvd, Suite 105
Rochester, NY 14623
Toad.Rath@BlueToadHardCider.com
(434) 996-7133



He noted that on the property there were two existing houses and a garage and that the existing wells would have adequately served the first Special Use Permit. He noted that the second well is probably intended to serve the second Special Use Permit. He then noted that Mr. Rath had noted that he needed to be in the new location by September of 2017 and that in March of 2018 he had still done nothing with the first Special Use Permit. He then noted that on January 19th, 2018 Mr. Rath promised his neighbors that the two homes would be removed and the fence would be up in the next couple of weeks. He then referenced an email on February 5th, 2018 where Mr. Rath asked his engineers when he could start moving dirt. On February 8th, 2018 Mr. Rath contacted the County for the first time and was told that he need to get a VSMP permit before starting any site work. He noted that on February 28th, 2018 at the Planning Commission Meeting he knew he could not get his second Special Use Permit approved so the Planning Commission pushed his hearing back to April. He noted that in an email on June 12th, 2018 to Mr. Steve Carter that he had hired a third party to deal with DEQ but that the work completed previously was so bad they had to start over and hired a new firm. He noted that on June 27th, 2018 that Mr. Rath had stated in an email why he had never started building thus far and why he never would have. He also noted that if you look at the site plan for the first Special Use Permit that the property line is not represented accurately.

Ms. Jeri Lloyd lives at 9322 Rockfish Valley Hwy. She noted that she lives directly across the street from this boondoggle. She noted that on two occasions Mr. Rath had stated that the first Special Use Permit was not financially viable for him. She noted that he stated he wouldn't do anything until the other Special Use Permit was approved and that this is coercion and threats. She noted that he did not get approvals with VDOT because he did not submit things when he was supposed to. She then explained that this application is not a golf course or air strip and that it will be essentially an alcohol mall. She noted that his plans constantly changed and that he was performing a bait and switch. She asked the BZA to uphold Ms. Shackelford's determination that the permit had expired. She also noted that the well is not on the piece of property approved for the original application.

Ms. Eleanor Amidon lives at 931 Tanbark Dr. in Afton. She noted that she is primarily concerned about the traffic on 151. She noted that on weekends you have to add 10 minutes to your travel time to get off of Tanbark. She noted that the problem with consistency depends on who is on the board and what they determine at the time. She stated that working with different agencies does not mean that he has taken action on his Special Use Permit.

Mr. Phillip DeJong lives at 305 Falling Springs Dr. in Afton. He noted that he and his wife adjoin Mr. Rath's property to the South and to the West. He noted that he emphatically agrees with Ms. Shackelford's decision. He noted that the delays are due to Mr. Rath and not due to any of the agencies previously mentioned. He noted that himself and other neighbors remain opposed to this project.

The Board then granted the representatives for both parties an additional 5 minutes to speak.

Mr. Sipe noted that the public is very concerned about this project. He noted that the usual process is that you get a Special Use Permit to allow you to do a use, you would then get a site plan. He noted that the non-structural commercial uses (golf course, airstrip, etc.) listed by the applicant's representative would require a site plan as well. He explained that completing the site plan process secures the applicant's rights. He noted that he believes the language in the zoning ordinance is there for good reason. He noted that the applicant should have tried to get a site plan approved after the Special Use Permit and that if the applicant had done this that he would have been able to avoid the Special Use Permit expiring.

Mr. Derdeyn then noted that it is unfair that it was said that the applicant would not do the first Special Use Permit without the second. He stated that the evidence shows that Mr. Rath was pursuing the first Special Use Permit. He noted that VDOT had approved the site plan and submitted it to the County. He noted that construction has commenced and that the Special Use Permit has been utilized, that the well has been installed, and that there has been surveying done on the property. He noted that it is not commencement of construction under a building permit but under a Special Use Permit. He noted that it wouldn't occur to the applicant to get an extension if he has been taking action on his Special Use Permit, drilled a well, and spent over \$100,000. He noted that he could not have gotten the site plan approved before things were resolved with the DEQ. He also noted that this is not consistent with how the zoning ordinance has been applied in the past. He then referenced a letter from the County Attorney where he used the analogy of someone getting a speeding ticket and then questioning why everyone else did not get one. Mr. Derdeyn stated that this analogy only works if you consider this application to be the first speeding ticket ever issued. He noted that he doesn't believe that the interpretation from the Zoning Administrator was ill meaning but that it was incorrect within the context of the zoning ordinance and in the manner that the zoning ordinance has been applied in the past.

Ms. Allen then closed the public hearing at 7:54 PM

Ms. Saunders asked why the DEQ has not approved this project. Mr. Todd Rath of 161 Wood House Ln in Nellysford noted that the DEQ takes 45 days every time you submit and that there is a lot of back and forth between the engineers. He noted that he does not know why it is not yet approved, but that he can submit every comment that they've ever made for the BZA to review. He noted that the engineer will address the list and then respond to DEQ. Ms. Saunders asked if DEQ comes to the property. Mr. Rath noted that DEQ has not stepped foot on the property. He also noted that for Steve and Justin Crandall, the process took 10 months to complete for the campground on Beech Grove Rd. Ms. Saunders asked when Mr. Rath started the process. He noted that it was May 30th of 2017. Mr. Rath noted that there is an email in the Board's packet where he asked if he could start doing things to the existing buildings on the property and that the DEQ said no. Ms. Saunders asked why Mr. McGann did not file a well completion report. Mr. Rath noted that there will be a draw down test next week and that there are approximately 18-20 gallons per minute. He noted that they could not use the old well because VDH would never approve it. He noted that the old well would not even meet VDH standards for the amount of water it provides.

Mr. Childs asked why Mr. Rath did not ask for an extension after seeing how long things were taking with DEQ. Mr. Rath noted that he didn't think the permit would expire because he had been continuing to do things. He noted that there have been 14 live SUPs in the past 5 years that have not begun building. He noted that these are SUPs that should have been notified of expiration but that they have not been. He noted that he voluntarily pulled the second SUP application because the notifications were not done properly by the County. Mr. Rath then noted that he was advised by the County to break the SUP up into phases and that he would have rather done it all at once. Ms. Saunders asked who he meant by County. Mr. Rath noted that it was the Planning and Zoning Board and Economic Development that told him to do it that way.

Ms. Bruguire noted that she was at the Planning Commission meeting where the County told Mr. Rath to split the application apart and that it is on record in the minutes. She noted that he had mentioned at the time that the phases were not viable without each other. Mr. Childs asked if it was because the uses weren't specifically identified. Ms. Bruguire then noted that one or two of the Planning Commissioners wanted more detail that wasn't on the site plan so one member recommended splitting the application

apart so that the part that was ready could be voted on and Mr. Rath could come back with the second part. Ms. Allen noted that some of the commissioners felt that at that time the application was very long and that they would be able to give it more attention if it was split up into pieces. Ms. Bruguere then asked if there is anything in the ordinance that addresses what happens if an agency is what is holding up the applicant. Ms. Shackelford noted that there isn't and that in the other applications that Mr. Rath referenced as expired cases weren't expired because they had had site plans approved which then allows for a 5 year expiration date. Ms. Bruguere then asked what would happen if there was a SUP where there was no building. Ms. Shackelford noted that the ordinance really states that the use shall be established or construction shall be commenced and be diligently pursued. She explained that you can establish a use that doesn't involve construction by simply beginning to use the property in that way. Ms. Bruguere asked what would happen in cases where there was no construction due to delays by other agencies. Ms. Shackelford noted that in most cases without construction that a site plan is still required due to the amount of land disturbed and that the site plan must be signed off on by other agencies before the county can approve it.

Ms. Saunders asked what information is provided to the applicant when they apply. Ms. Shackelford noted that they don't outline all of the things that the applicant can do to vest their rights and that it is typically up to the applicant and their engineers to be aware of it.

Mr. Childs asked what would happen if the BZA decided to uphold the decision. Ms. Shackelford noted that the applicant could continue to appeal the decision to Circuit Court or that he could apply for another SUP. Mr. Childs asked how much of a delay it would be to the applicant to reapply. Ms. Shackelford noted that typically the process takes 3-4 months but recently the Planning Commission took almost 6 months to make a commendation on the second phase of Mr. Rath's application. Ms. Shackelford added that the office is not required to issue notification that a SUP has expired. She noted that this normally addressed when someone comes in to the office to apply for a permit related to an SUP and at that point she would review the existing permits and determine whether or not they have expired. She noted that because this application had a lot of attention she decided to issue the expiration letter preemptively so that everyone would be aware and have a chance to participate in the process. She also noted that doing that allowed the applicant a formal determination to appeal so that the process could then be moved along even sooner.

Ms. Allen noted that the Board of Zoning Appeals has 60 days to reach a decision on this appeal. Mr. Childs noted that he did not want to further delay this and that he felt they had enough information to come to a decision at the time. Ms. Saunders asked why the tax map numbers on the site plan were not consistent. Ms. Shackelford noted that she believed it was a typo. Mr. Childs noted that it comes down to whether Ms. Shackelford made the right decision and that he doesn't see any case that can be made that she made the wrong decision. Ms. Saunders noted that she could understand the time and expense that has gone into the application.

Ms. Allen noted that at the time the applicant did not feel like he needed to apply for an extension because he felt like the work he was doing was sufficient. Ms. Bruguere asked if Mr. Rath was provided the information that he could apply for an extension. Ms. Allen noted that if she was the applicant and was going back and forth with different agencies, she would probably not think that she would have to file for an extension, but that she can also see this as the applicant not doing their due diligence in communicating.

Ms. Shackelford explained that there are certain SUPs that are approved for a specific period of time. She then noted that there is not a blanket extension process for the average SUP.

Mr. Childs asked that if the applicant had submitted the site plan with all approvals would it have constituted use or commencement. Ms. Shackelford noted that it would make it a harder argument to say that it is expired if it were left to one agencies review. Ms. Allen noted that the County can not approve a site plan without all other agency's approval. Ms. Bruguire asked if Mr. Rath was provided the information that he could ask for an extension. Ms. Shackelford noted that she didn't believe there was an option for the applicant to apply for an extension.

Ms. Allen noted that Ms. Shackelford did all that she could at the time but that Mr. Rath also didn't have many options as an applicant. Ms. Bruguire noted that perhaps the Board should reevaluate whether or not the expiration time should be changed to 2 years. Ms. Bruguire noted that there was a similar situation with Connie Brennan's application where she is trying to move forward with her application but is unable to.

Mr. Childs asked what would happen if the BZA decided that the expiration was not valid. Ms. Shackelford noted that the BZA would need to specify a new time frame for the applicant. Mr. Rath noted that his DEQ contact noted that the most recent submittal should be the last one but that he has heard this from them before. He noted that he believed 6 months would be enough time to settle things with DEQ.

Ms. Saunders asked if the DEQ issues had to do with the gas tanks that had once been on the property. Mr. Rath noted that that was settled in 1991.

Mr. Sipe noted that the Board is not allowed to change the time line approved or to rewrite the ordinance to be more fair. He noted that it is up to the Board of Supervisors to decide if a SUP expires after 1 or 2 years.

Mr. Derdeyn noted that whether the Board places an extension deadline or not, that the answer is in the ordinance already.

Ms. Shackelford noted that if the Board notes that the use is still active then the application would have to be inactive for 2 years before it will expire. Mr. Derdeyn noted that if activity commences then that is not an issue. Ms. Shackelford noted that this is correct as long as activity continues.

Mr. Childs made a motion that the BZA uphold the decision by the Planning Administrator that that SUP 2017-07 has expired. Mr. Moyer seconded.

Yes:

Ms. Saunders

Ms. Jones

Mr. Childs

Mr. Moyer

No:

Ms. Allen

Other Business:

Ms. Shackelford noted that the BZA is tentatively scheduled for the Atlantic Coast Pipeline applications for December 3rd.

Ms. Allen noted she would like to meet with the attorney Mr. Shreve at 6pm and that they adjourn the current meeting they will make a motion to reconvene with Mr. Shreve at 6pm on December 3rd.

Mr. Childs did note that he felt that they needed to do some things about the process. He noted that he didn't feel that this decision should have been up to the BZA. He noted that he believes things could be changed to better notify the applicant so that things like this do not happen in the future. Ms.

Shackelford noted that it depends that a flaw in management would be up to the BOS but a flaw in the interpretation would be up to her. Ms. Shackelford noted that finding a solution will depend on where the BZA believes the process was flawed.

Adjournment:

Ms. Allen made a motion for the BZA to reconvene on December 3rd at 6pm to meet with legal counsel and then to. Ms. Jones seconded. All agreed.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Emily Hjulstrom', with a long horizontal flourish extending to the right.

Emily Hjulstrom
Secretary